

May 24, 2023

The Honorable Cathy McMorris Rodgers
Chairman
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
House Energy & Commerce Committee
2123 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Rodgers, Ranking Member Pallone, and Members of the Committee:

It is a phenomenal moment for the broadband industry and our country's future. Between the billions of dollars of public funding and robust private investment, we are at a pivotal moment when it comes to connecting Americans in all corners of the country. However, there are still far too many barriers to deployment - one of the biggest being railroad crossings. Currently, members of our association have faced outrageous costs and a glacial permitting pace that is slowing broadband deployment and making it more expensive. In California, a member faced a \$47,610 crossing fee. In Indiana, a member paid \$45,000 for one crossing. In Alabama, a provider paid \$20,000 per crossing. In Florida, another member was slapped with a \$10,450 annual and recurring crossing fee that increases 4% each year. These examples are just the tip of the iceberg.

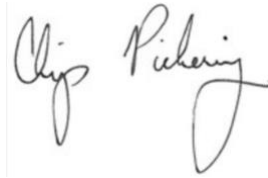
On June 30th, NTIA is going to award the BEAD funding and allocate the \$42.5 billion to states across the country. This money is meant to ensure new networks can be built in areas to connect the unserved, not line the pockets of the railroad industry. However, if providers are being forced to pay exorbitant fees for one crossing, this money isn't going to go as far as it possibly could.

Unfortunately, there has never been a national policy framework to address this issue. Railroads can treat any provider who tries to cross their tracks however they may choose. While we understand and respect private property and agree there must be just and reasonable compensation, that just isn't the case here. Although there are a handful of state laws on the books to address this issue, it is critical that we create a national standard as a backstop across the nation where state law doesn't currently protect network providers from being run over by the railroads.

We believe Congressman Balderson's amendment offers a commonsense solution that will tackle this issue head on. By acknowledging broadband providers do not need further permission from the railroads when they are in the public rights-of-way and mandating the FCC to work with the U.S. Secretary of Transportation on rules to address this situation to protect

safety standards, ensure a just and reasonable cost, and timely construction, we believe this is a vital step to remedy this situation. We urge the Committee to adopt the amendment which will help us cross the tracks, end the railroad holdup, and close the digital divide.

Sincerely,

A handwritten signature in black ink, reading "Chip Pickering". The signature is written in a cursive style with a large, looped "P" at the end.

Chip Pickering
CEO
INCOMPAS